

CHAPTER 10B**DIVISION OF MEDICAL ASSISTANCE AND
HEALTH SERVICES APPLICANT/
RECIPIENT HEARINGS****Authority**

N.J.S.A. 52:14F-5(e), (f) and (g).

Source and Effective Date

R.2006 d.302, effective July 26, 2006.
See: 38 N.J.R. 1895(a), 38 N.J.R. 3293(a).

Chapter Expiration Date

Chapter 10B, Division of Medical Assistance and Health Services Applicant/Recipient Hearings, expires on July 26, 2011.

Chapter Historical Note

Chapter 10B, Division of Medical Assistance and Health Services Applicant/Recipient Hearings, was adopted as R.1986 d.405, effective October 6, 1986. See: 18 N.J.R. 1507(a), 18 N.J.R. 2008(a).

Pursuant to Executive Order No. 66(1978), Chapter 10B, Division of Medical Assistance and Health Services Applicant/Recipient Hearings, was readopted as R.1991 d.500, effective September 13, 1991. See: 23 N.J.R. 2083(b), 23 N.J.R. 2998(b).

Pursuant to Executive Order No. 66(1978), Chapter 10B, Division of Medical Assistance and Health Services Applicant/Recipient Hearings, was readopted as R.1996 d.414, effective August 7, 1996. See: 28 N.J.R. 3206(a), 28 N.J.R. 4095(b).

Chapter 10B, Division of Medical Assistance and Health Services Applicant/Recipient Hearings, was readopted as R.2001 d.290, effective July 23, 2001. See: 33 N.J.R. 1980(a), 33 N.J.R. 2805(b).

Chapter 10B, Division of Medical Assistance and Health Services Applicant/Recipient Hearings, was readopted as R.2006 d.302, effective July 26, 2006. See: Source and Effective Date.

CHAPTER TABLE OF CONTENTS**SUBCHAPTER 1. HEARING APPLICABILITY**

1:10B-1.1 Applicability

SUBCHAPTER 2. DEFINITIONS

1:10B-2.1 Definitions

SUBCHAPTERS 3. THROUGH 4. (RESERVED)**SUBCHAPTER 5. REPRESENTATION**

1:10B-5.1 Representation

SUBCHAPTERS 6. THROUGH 8. (RESERVED)**SUBCHAPTER 9. CLERK'S NOTICE; SCHEDULING OF
HEARING**

1:10B-9.1 Clerk's notice

1:10B-9.2 Scheduling of hearing

SUBCHAPTER 10. DISCOVERY

1:10B-10.1 Discovery

SUBCHAPTERS 11. THROUGH 13. (RESERVED)

SUBCHAPTER 14. CONDUCT OF CASES

1:10B-14.1 Attendance at hearing

1:10B-14.2 Independent medical assessment

SUBCHAPTERS 15. THROUGH 17. (RESERVED)

SUBCHAPTER 18. DECISIONS

1:10B-18.1 Initial decision

1:10B-18.2 Exceptions

1:10B-18.3 Written initial decisions

SUBCHAPTERS 19. THROUGH 21. (RESERVED)

SUBCHAPTER 1. HEARING APPLICABILITY**1:10B-1.1 Applicability**

(a) The rules in this chapter shall apply to matters transmitted pursuant to N.J.A.C. 10:6 to the Office of Administrative Law by the Division of Medical Assistance and Health Services involving applicants for or recipients of Medicaid and Medically Needy benefits or services.

(b) This chapter shall not apply to matters involving providers.

(c) Any aspect of the hearing not covered by these rules of special applicability shall be governed by the Uniform Administrative Procedure Rules (U.A.P.R.) contained in N.J.A.C. 1:1. To the extent that this chapter is inconsistent with the U.A.P.R., this chapter shall apply.

Amended by R.1991 d.500, effective October 7, 1991.

See: 23 N.J.R. 2083(b), 23 N.J.R. 2998(b).

Added citation to N.J.A.C. 10:6.

SUBCHAPTER 2. DEFINITIONS**1:10B-2.1 Definitions**

For purposes of this chapter, the following definitions apply.

"Applicant" means any person who has made an application to become qualified to receive Medicaid or Medically Needy benefits.

"Recipient" means a New Jersey resident who has been determined to meet the applicable eligibility criteria for either the Medicaid or Medically Needy Programs and is determined to need medical care and services authorized under the New Jersey Medical Assistance and Health Services Act.

"Provider" means any person, public or private institution, agency or business concern approved by the Division of

Medical Assistance and Health Services that is lawfully providing medical care, services, goods and supplies and holding, where applicable, a current valid license to provide such services or to dispense such goods or supplies.

SUBCHAPTERS 3. THROUGH 4. (RESERVED)

SUBCHAPTER 5. REPRESENTATION

1:10B-5.1 Representation

An applicant/recipient may appear at a proceeding without representation or may be represented by an attorney or by a relative, friend or other spokesperson pursuant to the procedures set forth in N.J.A.C. 1:1-5.4. See: 42 C.F.R. 431.206(b)(3).

Amended by R.1991 d.500, effective October 7, 1991.
See: 23 N.J.R. 2083(b), 23 N.J.R. 2998(b).

SUBCHAPTERS 6. THROUGH 8. (RESERVED)

SUBCHAPTER 9. CLERK'S NOTICE; SCHEDULING OF HEARING

1:10B-9.1 Clerk's notice

(a) The Clerk shall send a written notice of filing and hearing to each party at least 10 days before the scheduled hearing date.

(b) The notice shall indicate that the applicant/recipient may represent himself/herself or use legal counsel, a relative, a friend or other spokesperson as per the Federal Fair Hearing Regulations at 42 C.F.R. 431.206(b)(3).

(c) The notice shall establish the hearing location, time and date.

1:10B-9.2 Scheduling of hearing

(a) The hearing shall be conducted at a reasonable time, date and place.

(b) Upon presentation of acceptable information regarding an applicant's/recipient's illness or infirmity which would prevent his or her appearance at a hearing location, the hearing shall be scheduled at the applicant's/recipient's current residence.

SUBCHAPTER 10. DISCOVERY

1:10B-10.1 Discovery

(a) The county welfare agency or the Division of Medical Assistance and Health Services shall provide the applicant/recipient or his or her authorized representative an opportunity to review the entire case file and all documents and records to be used in the hearing. The review shall occur at a reasonable time before the hearing as well as during the hearing.

(b) If a party wants information other than what is provided in (a) above, the party must request permission from the judge. The judge may permit the additional discovery only if there is good cause. The judge may not delay the hearing to allow for additional discovery.

SUBCHAPTERS 11. THROUGH 13. (RESERVED)

SUBCHAPTER 14. CONDUCT OF CASES

1:10B-14.1 Attendance at hearing

The applicant/recipient or a representative and the county welfare agency or the Division of Medical Assistance and Health Services and their representatives, if any, shall attend the hearing.

1:10B-14.2 Independent medical assessment

For good cause, the administrative law judge may order an independent medical assessment if the hearing involves medical issues such as those concerning a diagnosis, an examining physician's report or a medical review team decision. Such medical assessment shall be at the expense of the county welfare agency or of the Division of Medical Assistance and Health Services and shall be part of the record.

New Rule, R.2001 d.290, effective August 20, 2001.
See: 33 N.J.R. 1980(a), 33 N.J.R. 2805(b).

SUBCHAPTERS 15. THROUGH 17. (RESERVED)

SUBCHAPTER 18. DECISIONS

1:10B-18.1 Initial decision

An initial decision shall be issued within 21 days from the date of the hearing.